



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-124]

Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Luberdia or Whitley Herndon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2185 or (202) 482-6274, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on April 7, 2020.¹ On August 5, 2020, Commerce postponed the preliminary determination of this investigation and the revised deadline is now October 14, 2020.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is small vertical engines from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set

¹ *See Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 20670 (April 14, 2020) (*Initiation Notice*).

² *See Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 85 FR 47357 (August 5, 2020).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

aside a period of time for parties to raise issues regarding product coverage (scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*, as well as additional language proposed by Briggs & Stratton Corporation (the petitioner).⁶ For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁷ Commerce has preliminarily modified the scope language that appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price in accordance with section 772(a) of the Act. Commerce has calculated constructed export price in accordance with section 772(b) of the Act. Because China is a non-market economy, within the meaning of section 771(18) of the Act, Commerce has calculated normal value (NV) in accordance with section 773(c) of the Act. Furthermore, pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon the facts otherwise available, with adverse inferences, in determining the estimated weighted-average dumping margin for the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

⁵ *See Initiation Notice*.

⁶ *See* Petitioner's Letter, "Small Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Petitioner's Additional Comments on Scope," dated June 18, 2020.

⁷ *See* Memorandum, "Antidumping and Countervailing Duty Investigations of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination," dated August 17, 2020 (Preliminary Scope Decision Memorandum).

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of small vertical engines from China for Chongqing Zongshen General Power Machine Co., Ltd./Chongqing Dajiang Power Equipment Co., Ltd./Chongqing Zongshen Power Machinery Co., Ltd (collectively, the Zongshen Companies),⁸ and the China-wide entity, but do not exist for Chongqing Kohler Engines Ltd. (Chongqing Kohler) and the separate-rate companies. For a full description of the methodology and results of Commerce’s critical circumstances analysis, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice*,⁹ Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.¹⁰

Separate Rates

In addition to the mandatory respondents Chongqing Kohler and the Zongshen Companies, we have preliminarily granted certain non-individually examined respondents a separate rate. Also, we have preliminarily denied a separate rate to Loncin Motor Co., Ltd., and are treating it as part of the China-wide entity. *See* the Preliminary Decision Memorandum for details.

⁸ Commerce preliminarily determines that Chongqing Zongshen General Power Machine Co., Ltd./Chongqing Dajiang Power Equipment Co., Ltd./Chongqing Zongshen Power Machinery Co., Ltd. should be treated as a single entity. *See* Memorandum, “Whether to Collapse Chongqing Zongshen General Power Machine Co., Ltd. and Two Affiliates in the Less-Than-Fair-Value Investigation of Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People’s Republic of China,” dated October 14, 2020.

⁹ *See Initiation Notice*, 85 FR 20674.

¹⁰ *See* Enforcement and Compliance’s Policy Bulletin No. 05.1 regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available on Commerce’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

In calculating the rate for non-individually examined separate rate respondents in a non-market economy antidumping duty (AD) investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy AD investigation. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the weighted average of the estimated AD rates established for those companies individually examined, excluding zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Pursuant to the guidance in section 735(c)(5)(A) of the Act, we based the separate rate respondents' dumping margin on the dumping margins that we calculated for the mandatory respondents Chongqing Kohler and the Zongshen Companies. See the table in the "Preliminary Determination" section of this notice.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent)
Chongqing Kohler Engines Ltd.	Chongqing Kohler Engines Ltd.	374.31%	363.77%
Chongqing Zongshen General Power Machine Co., Ltd./Chongqing Dajiang Power Equipment Co., Ltd./Chongqing	Chongqing Zongshen General Power Machine Co., Ltd./Chongqing Dajiang Power Equipment Co., Ltd./Chongqing	316.88%	305.12%

Zongshen Power Machinery Co., Ltd.	Zongshen Power Machinery Co., Ltd.		
Producers Supplying the Non-Individually-Examined Exporters Receiving Separate Rates (<i>see</i> Appendix III)	Non-Individually-Examined Exporters Receiving Separate Rates (<i>see</i> Appendix III)	342.88%	331.73%
China-Wide Entity		541.75%	530.60%

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which NV exceeds U.S. price, as indicated in the chart above as follows: (1) for the producer/exporter combinations listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Chinese producers/exporters of merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (3) for all third-country exporters of merchandise under consideration not listed in the table above, the cash deposit rate is the cash

deposit rate applicable to the Chinese producer/exporter combination (or the China-wide entity) that supplied that third-country exporter.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise from the Zongshen Companies and the China-wide entity. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to all unliquidated entries of merchandise from the Zongshen Companies and the China-wide entity that were entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days before the publication of this notice.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce has made a preliminary affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the calculated estimated weighted-average dumping margin by the appropriate rate(s). Any such adjusted rates may be found in the Preliminary Determination section's chart of estimated weighted-average dumping margins above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to

begin collecting cash deposits at a rate equal to the estimated weighted-average dumping margins calculated in this preliminary determination unadjusted for the passed-through domestic subsidies or for export subsidies at the time the CVD provisional measures expire.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

Commerce is currently unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification. Commerce will notify interested parties of any additional documentation or information required.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.¹¹ Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.¹² Pursuant to 19 CFR 351.309(c)(2) and

¹¹ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

¹² See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

(d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 14, 2020.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of spark-ignited, non-road, vertical shaft engines, whether finished or unfinished, whether assembled or unassembled, whether mounted or unmounted, primarily for walk-behind lawn mowers. Engines meeting this physical description may also be for other non-hand-held outdoor power equipment, including but not limited to, pressure washers. The subject engines are spark ignition, single-cylinder, air cooled, internal combustion engines with vertical power take off shafts with a minimum displacement of 99 cubic centimeters (cc) and a maximum displacement of up to, but not including, 225cc. Typically, engines with displacements of this size generate gross power of between 1.95 kilowatts (kw) to 4.75 kw.

Engines covered by this scope normally must comply with and be certified under Environmental Protection Agency (EPA) air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. Engines that otherwise meet the physical description of the scope but are not certified under 40 CFR part 1054 and are not certified under other parts of subchapter U of the EPA air pollution controls are not excluded from the scope of this proceeding. Engines that may be certified under both 40 CFR part 1054 as well as other parts of subchapter U remain subject to the scope of this proceeding.

Certain small vertical shaft engines, whether or not mounted on non-hand-held outdoor power equipment, including but not limited to walk-behind lawn mowers and pressure washers, are included in the scope. However, if a subject engine is imported mounted on such equipment, only the engine is covered by the scope. Subject merchandise includes certain small vertical shaft engines produced in the subject country whether mounted on outdoor power equipment in the subject country or in a third country. Subject engines are covered whether or not they are accompanied by other parts.

For purposes of this investigation, an unfinished engine covers at a minimum a sub-assembly comprised of, but not limited to, the following components: crankcase, crankshaft, camshaft, piston(s), and connecting rod(s). Importation of these components together, whether assembled or unassembled, and whether or not accompanied by additional components such as a sump, carburetor spacer, cylinder head(s), valve train, or valve cover(s), constitutes an unfinished engine for purposes of this investigation. The inclusion of other products such as spark plugs fitted into the cylinder head or electrical devices (*e.g.*, ignition coils) for synchronizing with the engine to supply tension current does not remove the product from the scope. The inclusion of any other components not identified as comprising the unfinished engine subassembly in a third country does not remove the engine from the scope.

Specifically excluded from the scope of the investigation are “Commercial” or “Heavy Commercial” engines under 40 C.F.R. §§ 1054.107 and 1054.135 that have (1) a displacement of 160 cc or greater, (2) a cast iron cylinder liner, (3) an automatic compression release, and (4) a muffler with at least three chambers and volume greater than 400 cc.

The engines subject to this investigation are predominantly classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 8407.90.1010. The engine subassemblies that are subject to this investigation enter under HTSUS 8409.91.9990. The mounted engines that are subject to this investigation enter under HTSUS 8433.11.0050, 8433.11.0060, and 8424.30.9000. Engines subject to this investigation may also enter under HTSUS 8407.90.1020, 8407.90.9040, and 8407.90.9060. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Discussion of the Methodology
- VII. Currency Conversion
- VIII. Adjustment Under Section 777(A)(f) of the Act
- IX. Adjustments to Cash Deposit Rates for Export Subsidies
- X. ITC Notification
- XI. Recommendation

Appendix III

List of Separate Rate Companies

Exporter	Producer
Non-Individually-Examined Exporters Receiving Separate Rates	Producers Supplying the Non-Individually- Examined Exporters Receiving Separate Rates
Changzhou Kawasaki and Kwang Yang Engine Co., Ltd.	Changzhou Kawasaki and Kwang Yang Engine Co., Ltd.
Chongqing Chen Hui Electric Machinery Co., Ltd.	CHONGQING AM PRIDE POWER & MACHINERY CO., LTD.
Chongqing Chen Hui Electric Machinery Co., Ltd.	Chongqing Kohler Motors Co., Ltd.
Chongqing HWASDAN Power Technology Co., Ltd.	Chongqing HWASDAN Power Technology Co., Ltd.
Chongqing Rato Technology Co., Ltd.	Chongqing Rato Technology Co., Ltd.
CHONGQING SENCI IMPORT&EXPORT TRADE CO., LTD.	CHONGQING AM PRIDE POWER & MACHINERY CO., LTD.
CHONGQING SENCI IMPORT&EXPORT TRADE CO., LTD.	Chongqing Zongshen General Power Machines Co., Ltd.
Jialing-Honda Motors Co., Ltd.	Jialing-Honda Motos Co., Ltd.
Wenling Qianjiang Imp. & Exp. Co., Ltd.	Chongqing Rato Technology Co., Ltd
Wenling Qianjiang Imp. & Exp. Co., Ltd.	QIANJIANG GROUP WENLING JENNFENG INDUSTRY INC.
Zhejiang Amerisun Technology Co., Ltd.	CHONGQING DINKING POWER MACHINERY CO., LTD.
Zhejiang Amerisun Technology Co., Ltd.	Chongqing Rato Technology Co., Ltd.
Zhejiang Amerisun Technology Co., Ltd.	LONCIN MOTOR CO., LTD.
Zhejiang Amerisun Technology Co., Ltd.	Zhejiang Dobest Power Tools Co., Ltd.

[FR Doc. 2020-23269 Filed: 10/20/2020 8:45 am; Publication Date: 10/21/2020]